

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

TIMOTHY DEFOGGI,

Defendant.

Case No. 8:13CR105

**MOTION FOR INDEPENDENT REVIEW
OF INTERNET AND COMPUTER-
RELATED EVIDENCE**

Pursuant to Rule 16(a)(1)(E), Defendant Timothy Defoggi respectfully moves the Court for an Order permitting independent review of internet and computer-related evidence in possession or control of the government.

In support of his motion, Defendant states the following:

1. Each of the seven counts in the Indictment allege crimes that occurred during the Defendant's alleged use of "Website A".

2. Website A allegedly contained images depicting child pornography and operated on "The Onion Router" ("TOR") which serves as a sort of virtual network that offers anonymity to users.

3. The way a TOR website, and specifically Website A, operates is complicated and unlike how "normal" websites operate.

4. The investigation resulting in the Indictment involved highly-technical methods including interception of electronic communications, surreptitious installation of keyloggers, cracking encrypted passwords, identification of IP addresses, and other technological investigative techniques.

5. Accordingly, it is the belief of the Defendant's undersigned counsel that an independent review of the investigation into Website A, as well as the evidence seized from the Defendant's house, are necessary to afford the Defendant his rights to due process and effective assistance of counsel, as guaranteed by the Sixth and Fourteenth Amendments of the U.S. Constitution.

6. Independent review would be done by Daniel R. Meinke, Computer Forensic Resources, 300 S. Phillips Ave., Suite #L102, Sioux Falls, SD 57104. Review is expected to cost greater than \$300.

For these reasons, Defendant requests an Order authorizing payment under the Criminal Justice Act.

Respectfully submitted,
Timothy Defoggi, Defendant

/s/ John S. Berry
John S. Berry, #22627
BERRY LAW FIRM
2650 North 48th Street
Lincoln, NE 68508
john@jsberrylaw.com
(402) 466-8444

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Michael Norris, Assistant U.S. Attorney and Keith A. Becker, U.S. Department of Justice, by electronically serving a copy of the same to both via CM/ECF, on this the 6th day of March, 2014.

/s/ John S. Berry

John S. Berry, #22627